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CONFIDENTIAL FAX

Woolley
 att; Barbara Woolley, Public Liaison
 TO: President William Jefferson Clinton

RE: Investigation of the City of Norfolk/
 Environmental Racism

FROM: CHRMAPC, c/o
 Mr. Roy L. Perry - Bay / CEO

DATE: August 4, 1998

Pgs) 8 including this cover sheet

NOTE:

We're seeking a statement of
 support from the President, and
 look forward to hearing from
 the White House soon...

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PFE**Citizens of Hampton Roads March Against Poverty Campaign, Inc.
7510 Granby St. Ste. 207 Norfolk, Va. 23505****August 4, 1998****Honorable Janet Reno, Esq.****Attorney General of the United States of America****U. S. Department of Justice****Tenth Constitution Ave. NW****Washington, D.C. 20530****Re: Investigation of the City of Norfolk & Environmental Racism****Dear Madam Attorney General Reno:**

There are substantial grounds to believe that the City of Norfolk, acting through the Virginia Electric & Power Company, have engaged in an illegal Political scheme to circumvent both state and federal law or law(s). Through these schemes, the City of Norfolk and the Virginia Electric & Power Company and their agents, each committed knowing and willful violations of state and federal laws, involving serious violations of 42 U.S.C. 1983 et seq., The State Water Control Law "Code of Virginia 62.1-44.2 (2), (3), (4) and (5). The Clean Air Act (CAA); 42 U.S.C. s/s 7401 et seq. (1970), The Clean Water Act (CWA); 33 U.S.C. s/s 121 et seq. (1977). The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) 42 U.S.C. s/s 9601 et seq. (1980), The Emergency Planning & Community Right-To-Know Act (EPCRA); 42 U.S.C. 11011 et seq. (1986), The Pollution Prevention Act (PPA); 42 U.S.C. 13101 and 13102, s/s et seq. (1990), The Resource Conservation and Recovery Act (RCRA); 42 U.S.C. s/s 321 et seq. (1976), The Safe Drinking Water Act (SDWA); 43 U.S.C. s/s 300f et seq. (1974), The Toxic Substances Control Act (TSCA); 15 U.S.C. s/s 2601 et seq. (1976), The Emergency Planning and Notification Act 42 U.S.C. § 11004. Including but not limited to, suborning perjury, obstruction of justice, reckless endangerment and disregard of the Public health, safety and welfare. And environmental racism.

These matters warrant investigation to determine whether criminal activity on the part of high ranking officials and violations of Public safety and the federal Environmental Quality laws have occurred.

In the circumstances here the Independent Counsel Act requires the appointment of an independent counsel in an investigation involving high-level officials of the City of Norfolk, & its City Attorney's office, under 28 U.S.C.A. 592 et seq., that authorizes your office, to compel appointment of an independent counsel in an investigation where, as this matter involving the City of Norfolk, the Virginia Electric & Power Company, you may have a "political and/or other conflict of interest." 28 U.S.C. 591 (c).

The Citizens of Hampton Roads March Against Poverty Campaign, Inc., therefore urges you to fulfil your responsibility under the law by taking the steps necessary to seek the appointment of an independent counsel under the Independent Counsel Act to investigate all of the matters discussed below.

1. Summary of The Allegations.

The City of Norfolk owns a 13.4-acre site bounded by Virginia Beach Boulevard and Monticello Avenue on the south and west, respectively, and by Princess Ann Road and Salter Street on the north and east, respectively (The "Site").

Virginia Electric and Power Company, trading as Virginia Power, is a corporation organized and existing under the laws of the Commonwealth of Virginia. Virginia Power is the former owner of the Site and has exercised control over the Site to the City of Norfolk as set forth in further detail below.

History, Ownership and Control

The contaminated Site was the former location of a Manufactured gas plant which began operations in approximately 1853 supplying illuminating gas to residents of the City of Norfolk. The manufactured gas plant was located on the southern half of the Site. The northern half of the Site has at all pertinent times been owned by the City of Norfolk.

In approximately 1930, Virginia Power became the record owner of the southern half of the Site and the owner and operator of the manufactured gas plant.

The City of Norfolk purchased the southern half of the Site as a political cover up, from Virginia Power in approximately December, 1970, and has owned the entire Site continuously up to the present time.

Petitioner complained to the Department of Justice for an investigation into the City of Norfolk's activity on July 17, 1998, regarding its pattern and practice of economic and environmental racism. A careful investigation of the City of Norfolk, will reveal an entire gated minority community, situated in the City of Norfolk, known as Ghent. Where scores of Plaintiffs, in fact were residents, exposed for years to the contaminated "Site" That was demolished, was racially, politically and economically motivated.

The demolition of this area was, an obstruction of the Citizens of former Ghent, civil rights, for the expressed purpose, to prevent "them" whom officials fail, to inform of the known risk of harm, from pursuing any legal cause of action, against the City and its criminal activity, toward this protected group. amounts to environmental hate crimes, the City attempted, to cover up.

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Manufactured gas was produced on the Site by passing steam over a bed of incandescent coal or coke, producing a mixture of carbon monoxide and hydrogen. The gas was then passed through various stages of cleanup before storage in gas holding facilities prior to distribution.

The manufactured gas process produced by-products and wastes, including coal tar and coal ash. Constituents associated with these by-products and wastes included volatile organic compounds, polynuclear aromatic hydrocarbons, phenolics, inorganic nitrogen compounds, metals and gases such as methane.

Including among the hazardous substances generated and disposed of on the Site known to the City of Norfolk are constituents which are acutely toxic, and carcinogenic. Included among these toxic and carcinogenic constituents are cyanide, arsenic, chromium, lead, benzene, toluene, phenol, chrysene, indeno [1,2,3-cd] pyrene, benzo[a] pyrene, benzo [b] fluoranthene, benzo [ghi] perylene and benz [a] anthracene.

These compounds include some of the most toxic and carcinogenic compounds known to man.

Subsequent to the purchase of the Site by the City of Norfolk, hazardous waste and hazardous substances which were buried on the Site by Virginia Power during its operations and ownership of the Site were uncovered. The City of Norfolk and Virginia Power commenced an investigation of the nature and extent of the contamination on the Site and determined that the Site was pervasively contaminated with hazardous substances and hazardous wastes, including those substances set forth above. The investigation revealed that the hazardous substances and pollutants present on the Site in the soils had contaminated the groundwater aquifer [Groundwater source; underground water-carrying layer of soil or rock.] on the Site and monitoring wells located on Princess Anne Road and 11th Street, sampled in August of 1995 disclosed that such substances are recently migrating off-site to surrounding properties as part of a contaminated groundwater "plume" The investigation also revealed that methane gas and other hazardous volatile organic vapors were emanating from the Site.

Hazardous and dangerous substances are present on the Site today and are being released from the Site in the form of vapor and groundwater migration which occurs at intermittent intervals to this day.

Virginia Power and the City of Norfolk jointly and with control over the premises and all persons and entities engaged, directed a so-called "remediation" of the Site by employing and directing the actions of such persons and entities which "remediation" was completed in July, 1995 and resulted in a capping of the Site which actually has caused further contamination by vapor migration that did not exist before which actions imperil adjoining landowners, residents and the general Public, of which the City refuses to make public is a direct violation of the Public Trust.

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(Red)contamination of landowners and residential properties

The landowners and residential properties are hydraulically down-gradient from the Site, such that surface water and groundwater flows over and emanates from the Site flows in the direction of landowners and residential properties. In addition, vapors and gases produced by underground coal tar deposits migrate to the landowners and residential properties and carry hazardous constituents as the result of the Capping and other varying factors. Groundwater, surface water and vapor flow from the Site to the landowners properties and residential properties is occurring and during storm events, surface water runoff from the Site also onto surrounding adjoining properties. Flows of surface water, groundwater and vapors from the Site have in the past and continue today to carry hazardous substances and hazardous wastes originating at the Site onto scores of properties.

Indeed, a scientific investigation of the properties near the Site conducted in October, 1995 revealed that soils and ground water on the properties were contaminated with hazardous substances, including but not limited to, cyanide, arsenic, chromium, lead, 1,4-dichlorobenzene, dinitro toluene, phenol, chrysene, indeno [1,2,3-cd] pyrene, benzo[a] pyrene, benzo[b] fluoranthene, benzo[ghi] perylene and benz[a] anthracene, matters not theretofore known to the landowners, residents and Public at large.

At no time prior to July 30, 1995 did the City make Public of any threat to the Public, nor did Petitioner have any knowledge that, the City was illegally concealing a known risk of harm to Public Safety and health as the result of the migration of hazardous substances/contaminants from the site.

Air analysis of the surrounding properties in the area to the Site performed on May 21, 1996 disclosed that methane in potentially explosive quantities and other hazardous volatile organics associated with coal tar degradation are migrating onto the landowners and residents properties.

These hazardous substances were in the past and continue today to be released in high levels from the Site onto the landowners and residents properties as the result of the original burying of coal tars on the Site and as the result of the "capping" of the Site without adequate venting of gases as part of Virginia power and the City of Norfolk's "remediation" efforts.

The landowners and residents have never received any notice from the City of Norfolk regarding the potential for releases of hazardous substances or pollutants from the Site onto their properties or that the Site was contaminated with hazardous substances, and the Petitioner had no knowledge of any such contamination threat on or from the site prior to July 30, 1995.

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The releases and threatened releases of hazardous substances and pollutants from the contaminated Site have in the past and continue to pose a serious threat to the health and safety of the Public.

The migration of these hazardous substances and pollutants onto the landowners and residents properties was and continues to be an unauthorized invasion of their property interest. In fact, monitoring wells dug immediately in the contaminated area "Site" which were sampled in August of 1995 demonstrate that contaminants from the Site are recently impacting their properties as the leading edge of a groundwater plum.

The City of Norfolk officials have consistently maintained in written submissions to the Virginia Department of Environmental Quality regarding the Site filed from 1991 through December, 1994 that migration of substances off-site to adjoining properties had not occurred. The City's consultants has now acknowledged what they clearly knew that in light of the August, 1995 monitoring well results, that polaromatic hydrocarbons and cyanide found off of the Site are present as part of the "leading edge" of an off-site groundwater plum.

The City of Norfolk was at all times herein criminally negligent and grossly negligent in the maintenance of it's property from the time of its purchase until present and has acted in the capacity of a private landowner with respect to the Site in holding the land for profit and speculation.

The City and Virginia Electric & Power Company and each of them owed the Public a duty they clearly breached by their failure to act with reasonable care in handling, disposal and containment of hazardous substances and pollutants at the Site and in the maintenance of the property generally.

Specifically, Virginia Power created unreasonable hazardous and known risk to the Public, adjoining landowners and residents, by burying coal tars and other substances underground and failing to remove or contain such substances with knowledge that such materials would naturally degrade and cause known risk, hazards and dangers to the Public, adjoining landowners and residents, due to the well known phenomena of groundwater and vapor migration.

Further, both the City and Virginia Power intentionally and negligently "capped" the Site in violation of the standard of care for such "remediation" given the hydro geology of the Site and the nature and extent of the contamination of the Site and such reckless disregard for Public health and Safety and actions have created new hazards and have exacerbated existing hazards and dangers to the Public, as the result of the deliberate failure to remove the coal tar hazard or abate its effects upon the adjoining landowners and residents.

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We believe the City of Norfolk and Virginia Electric & Power Company and their agents, massively violated the primary federal Environmental Protection law or law(s). In addition, the City and Virginia Power and their agents, massively violated the comprehensive Environmental Response, Compensation, and Liability Act. And the Emergency Planning and Notification Act, included but not limited to; The Emergency Planning & Community Right to know Act, in violation of law.

In sum, the City and Virginia Power, and their agents acting through their respective parties in the ways described above, each have engaged in an illegal scheme to violate All applicable Environmental Protection Standards and to violate the prohibition on the State of Virginia and the applicable restriction on such abuse and violations of the law.

The State of Virginia, City of Norfolk and Virginia Power have also engaged in an illegal scheme to violate the disclosure requirements of the federal EPA laws.

Any such scheme to knowingly and willfully exceed the EPA laws, to knowingly and willfully violate the civil rights of it's Citizens, Specifically minorities, to suborn perjury, and obstruction of justice and to knowingly and willfully violate the federal EPA disclosure requirements is a criminal violation of federal EPA laws.

The Justice Department has exclusive jurisdiction to prosecute such criminal violations, subject to the Independent counsel Act. Justice Department guidelines indicate that this is the kind of EPA law case that should be pursued by the Department, regardless of the Environmental Protection Agency's primary jurisdiction to investigate potential EPA violations of the law.

The Citizens of Hampton Roads March Against Poverty Campaign, Inc., believes that massive violations well documented have occurred from 1930 through 1998 during EPA's and the Virginia Department of Environmental Quality Agencies, review of the high-ranking officials consistent written submissions that migration of hazardous substances off-site had not occurred, the most massive violations of the EPA law and law(s) since the Watergate scandal. These violations involve serious civil and human rights violations and abuses, and hundreds of millions of dollars.

Under these circumstances, an independent counsel is required to investigate these matters and to take appropriate action to hold responsible individuals and entities accountable for any violations that have occurred.

Set forth below is a review of the applicable statutes and the factual allegations requiring an investigation by an independent counsel.

II. Independent Counsel Act

The Independent counsel Act, 28 U.S.C.A. 591 et seq provides for the appointment of an independent counsel to conduct criminal investigations that involve any member of a specified class of individuals, including the Mayor and Vice Mayor, members of county, high-ranking individuals in the Executive office of The Mayor, other high-level Executive Branch officials, and the Governor and members of the Cabinet and any officer of that office exercising authority at the state, local and national level. 28 U.S.C.A. 591 (b)

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The law also provides for the appointment of an independent counsel to conduct criminal investigations of any persons where the Attorney General determines such investigation "may result in a personal, financial, or political conflict of interest." 28 U.S.C. 591 (c)

Some of the matters raised in this Petition involve the Governor, States legislatures whose national officers are "covered persons" within the meaning of section 591 (b).

Other matters raised here are intimately related to the allegations about these "covered persons," and involve the Department of Justice and both the City Attorney's office & States Attorney Generals office, and the City Council. Any investigation of these entities would plainly involve a "political conflict of interest" for you as Attorney General within the meaning of section 591 (c). The allegations related to these entities should be examined as part of the investigation of the section 591 (b) "covered persons" under the Act, be referred to an independent counsel.

Accordingly, under sections 591 (b) and 591 (c), the investigation of this entire matter is governed by the independent counsel law.

The independent counsel law provides that whenever you receive "information sufficient to constitute grounds to investigate" whether any covered person, including a person covered by section 591 (c), "may have violated any federal criminal law," you have thirty days to determine if the information is sufficiently specific and from a sufficiently credible source to justify beginning a "preliminary investigation," 28 U.S.C. 592 (c)(1)(A).

The Citizens of Hampton Roads March Against Poverty Campaign, Inc., calls on you to fulfil your responsibilities under the Act by opening a preliminary investigation leading to the appointment of an independent counsel to investigate the high crimes and matters discussed in this official Petition. The independent counsel should be responsible for conducting only this investigation. Given the statutory time frames, the Public health & safety crisis, and gravity of the situation. We urge your office to make an immediate application to the court for appointment of an independent counsel as soon as possible.

We look forward to a timely response from your office in the near future.

Sincerely,


Mr. Roy L. Perry-Bey
Executive Director